

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES of the SHEET METAL  
WORKERS' NATIONAL PENSION FUND;  
TRUSTEES of the NATIONAL ENERGY  
MANAGEMENT INSTITUTE COMMITTEE  
FOR THE SHEET METAL AND AIR  
CONDITIONING INDUSTRY; TRUSTEES  
of the SHEET METAL OCCUPATIONAL  
HEALTH INSTITUTE TRUST; TRUSTEES  
of the INTERNATIONAL TRAINING  
INSTITUTE FOR THE SHEET METAL  
AND AIR CONDITIONING INDUSTRY;  
TRUSTEES of the NATIONAL  
STABILIZATION AGREEMENT OF THE  
SHEET METAL INDUSTRY FUND,

Plaintiffs,

-against-

MINELLI CONSTRUCTION CO., INC.,  
MARY MUNDA, as an individual, JOSEPH  
SPANO, as an individual, and JOHN  
GERTSONSON, as an individual,

Defendants.  
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**APPEARANCES:**

**JEFFREY S. DUBIN, ESQ.**

*Attorney for the Plaintiffs*

464 New York Avenue, Suite 100

Huntington, NY 11743

**NO APPEARANCES:**

**MINELLI CONSTRUCTION CO., INC.**

*The Defendant*

**MARY MUNDA**

*The Defendant*

**ADOPTION ORDER**  
14-CV-7352(ADS)(ARL)

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ SEP 28 2015 ★

LONG ISLAND OFFICE

**JOSEPH SPANO**  
*The Defendant*

**JOHN GERTSONSON**  
*The Defendant*

**SPATT, District Judge:**

On December 17, 2014, the Plaintiffs Trustees of the Sheet Metal Workers' National Pension Fund; Trustees of the National Energy Management Institute Committee for the Sheet Metal and Air Conditioning Industry; Trustees of the Sheet Metal Occupational Health Institute Trust; Trustees of the International Training Institute for the Sheet Metal and Air Conditioning Industry; Trustees of the National Stabilization Agreement of the Sheet Metal Industry Fund (collectively, the "Trustees" or "Plaintiffs") commenced this action against the Defendants Minelli Construction Co., Inc. ("Minelli"), Mary Munda ("Munda"), Joseph Spano ("Spano"), and John Gertsonson (Gertonson, together with Minello, Munda and Spano, the "Defendants") under Section 515 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1132 *et seq.*, to recover unpaid fringe benefit contributions to the Funds and related damages.

On February 4, 2015, the Clerk of the Court noted the Defendants' default.

On February 12, 2015, the Plaintiffs moved for a default judgment.

On February 13, 2014, this Court referred the matter to United States Magistrate Judge Arlene Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorneys' fees and costs.

On July 17, 2015, Judge Lindsay issued a Report and Recommendations ("R&R") recommending that a default judgment be entered in favor of the Plaintiffs and that damages be awarded as follows: \$16,177.54 in unpaid contributions; \$3,235.51 in liquidated damages; \$2,280 in attorneys' fees; and \$560 in costs, for a total award of \$22,253.05. Judge Lindsay further recommended that the Plaintiffs' request for interest on the unpaid contributions be denied without prejudice and with leave to renew upon submission of additional supporting documentation.

On July 20, 2015, counsel for the Plaintiffs served a copy of the R&R upon the Defendants.

More than fourteen days have elapsed since service of the R&R on the Defendants, each of which has failed to file an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the July 17, 2015 Report and Recommendations is adopted in its entirety, and the Plaintiffs' motion for a default judgment is granted. The Clerk of the Court is respectfully directed to enter judgment in favor of the Plaintiffs in the amount of \$21,693.05, plus costs of \$560, and to close the case.

It is

**SO ORDERED**

Dated: Central Islip, New York  
September 28, 2015

s/ Arthur D. Spatt

ARTHUR D. SPATT  
United States District Judge